

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

ADAM M. ELLIOTT,

Plaintiff,

v.

Civil Action 2:19-cv-3445

Judge Edmund A. Sargus, Jr.

Magistrate Judge Chelsey M. Vascura

**COMMISSIONER OF SOCIAL
SECURITY,**

Defendant.

OPINION AND ORDER

On February 14, 2020, the Magistrate Judge issued a Report and Recommendation to the effect the decision rendered by the Commissioner of Social Security denying disability benefits to Adam. M. Elliott, plaintiff herein, from March 25, 2013 through May 31, 2018, when he returned to work should be affirmed. For the reasons that follow, the undersigned **ADOPTS** the Report and Recommendation.

I.

Adam M. Elliott initially applied for disability benefits on October 23, 2013. (R. 143). Following a denial of benefits from the Commissioner of Social Security, he appealed to this Court, which in turn remanded the case. *See* 2:17-cv-542. A second hearing before an Administrative Law Judge again resulted in a denial of benefits. (R. 589–606). The plaintiff thereafter filed a timely action in this court.

The plaintiff raises two objections to the Report and Recommendation. First, he contends that the Magistrate Judge incorrectly reviewed the use of a cane by Mr. Elliott, which should have been given greater weight by the Administrative Law Judge. Yet, the only reference to the use of

a cane came from Dr. Thompson, a consultative physician who simply noted that Mr. Elliott used a cane “occasionally on uneven surfaces.” (R. 487). Social Security Ruling 96-9p instructs that a hand-held assistive device must be “medically required” to be treated as a restriction on a claimant’s ability to perform gainful activity. Dr. Thompson merely described the plaintiff’s use of a cane and did not opine that the device was “medically required.” The absence of record support for the necessity of the device determines the issue.

Second, the plaintiff contends that the Administrative Law Judge improperly weighed the medical opinions of record and failed to prove good reason for rejecting the opinions of his treating physicians. The undersigned has reversed the somewhat conflicting medical testimony in the case. This does not decide the merits of the case, but rather determines whether substantial evidence supports the decision of the Administrative Law Judge. *Rogers v. Comm’r of Soc. Sec.*, 582 F.3d 647 (6th Cir. 2009). The Court is satisfied that substantial evidence supports the decision made by the Administrative Law Judge as explained in detail in the Report and Recommendation.

II.

Based upon the foregoing, the Report and Recommendation is **ADOPTED**. The decision of the Commissioner of Social Security denying disability benefits to Adam M. Elliott from March 25, 2013 through May 31, 2018 is **AFFIRMED**. This case is **DISMISSED**.

9-28-2020
DATE

s/Edmund A. Sargus, Jr.
EDMUND A. SARGUS, JR.
UNITED STATES DISTRICT JUDGE